



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

MEMORANDUM

**TO:** Charles Lee, Acting Director, Office of Environmental Justice (“OEJ”)  
Office of Enforcement and Compliance Assurance (“OECA”)

**FROM:** Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

**DATE:** August 30, 2007

**RE:** “Environmental Justice in the News” for the Week Ending August 31,  
2007

=====

This memorandum summarizes select environmental justice news actions for the period beginning June 29, 2007 through the week ending August 31, 2007. The summary is limited to Lexis/Nexis searches conducted using the query: “(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low\*\*\*income) or (executive order 12898) or (civil right! w/25 environmental) or (“fair housing act” w/25 (environment! or zon!)).” Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **“EPA to Bolster Ties with Advisory Panel as Part of New Initiative, Official Says, BNA Reporter (Aug. 27, 2007).** According to the article, the United States Environmental Protection Agency (“EPA”) plans to “substantially step up efforts to integrate its policies and programs and improve its relationship with [the National Environmental Justice Advisory Council (“NEJAC”).” The Acting Director of EPA’s Office of Environmental Justice asserted that EPA was entering into a “new phase” in its relationship with the NEJAC during an August 23, 2007 teleconference. In addition, EPA plans to begin regular environmental justice reviews of its programs in March 2008. EPA is also “developing an assessment tool to determine which communities are disproportionately burdened by pollution.” The teleconference was held in anticipation of a NEJAC meeting scheduled for September 18-20, 2007 in Baltimore, Maryland.

- **“Activists Challenge Port on Truck Pollution, Jobs,” Inside Bay Area (CA Aug. 23, 2007).** According to the article, the Association of Community Organizations for Reform Now (“ACORN”) met with the Port of Oakland Board during the week of August 20, 2007 to complain about heavy truck traffic and pollution in West Oakland, California. One ACORN member told the Board that “31 percent of the 200 people surveyed so far in West Oakland said they suffered from asthma, a result of the unhealthy atmosphere surrounding port operations” at the Port of Oakland. Soot is considered the leading contributor to the asthma, such that the environmental activists are calling on the Port to “reduce the amount of soot spilling into neighboring West Oakland homes.”
- **“Ruling Highlights Citizen Suit Limits in New EPA Excess Emissions Rule,” Inside EPA (Aug. 17, 2007).** According to the article, a ruling from the United States District Court for the Eastern District of Louisiana on August 10, 2007 found ExxonMobil, a Louisiana-based refinery, “liable for 2,665 air act violations and mandated a remedy via an existing enforcement agreement between the company and [EPA], but left the door open to a future citizen suit should the violations continue.” The ruling “highlights the limits that a contentious EPA rule will put on the public’s ability to scrutinize, and litigate over, facilities’ plans for minimizing emissions during startups, shutdowns, and malfunctions (“SSM”), activists say.” The April 20 rule determined that “a facility’s plans for minimizing emissions in SSM periods are not legally enforceable.” In addition, the rule prohibited public access to the plans. Environmental justice groups and activists disagree and assert that the SSM rules should prevent excess emissions events.
- **“Environmental Justice Panel Sets Sept. 5 Meeting,” Albuquerque Journal (N.M. Aug. 16, 2007) at 1.** According to the article, the Environmental Justice Task Force, which the Albuquerque-Bernalillo County Air Quality Control Board created in July, will hold its first meeting on September 5, 2007. The Task Force was “created in response to concerns and protests from the community and some board members about how air quality permits are issued, particularly in low-income or minority areas, or areas in which industry and a community coexist.” The Task Force will seek to “identify opportunities to integrate environmental justice in existing city and county programs, strengthen community outreach efforts and strengthen enforcement actions against polluters.”
- **“BIA Criticized for Handling of Navajo Power Plant,” Associated Press State and Local Wire (Aug. 16, 2007).** According to the article, a decision of the Bureau of Indian Affairs (“BIA”) to not extend the comment period on a draft environmental impact statement “for a controversial coal-fired power plant planned for a remote area of the Nation’s largest Indian reservation” led to criticism from environmentalists, members of the Navajo Nation, and Representative

John Salazar (D-CO). These groups sought a sixty-day extension of the comment period for the Desert Rock Energy Project, due to the project's potential impact on the air and water in the Four Corners region, which encompasses New Mexico, Colorado, Utah, and Arizona. Included among potential concerns of Desert Rock opponents are environmental justice claims, as well as unspecified claims of civil rights violations against BIA for its handling of the plant.

- **“Uranium: NRC Weighs Effects of N.M. Mining Boom on Groundwater, Citizen Health,” Land Letter (Aug. 16, 2007).** According to the article, the Nuclear Regulatory Commission (“NRC”) was criticized at an August 9, 2007 public scoping meeting with regard to its effort “to craft a broad environmental analysis of the effects of a new uranium processing boom in the interior West.” NRC is currently assembling a “generic environmental impact statement” (“GEIS”), which will examine the effect of the rising number of applications for milling facilities. Several people at the meeting expressed concerns with the “potential environmental and health effects of a resurrected uranium industry. . . . Others urged the commission to consider the environmental justice implications of a resurrected uranium industry, since many of New Mexico’s richest ore bodies are on or near tribal lands.” One commenter noted that adoption of the GEIS would “remove the current environmental inquiries required for each specific proposed mining site, restrict public comment on future uranium mining licenses and undermine environmental justice in [New Mexico].”
- **“Tallevast Leaders Look to EPA for Support,” Bradenton Herald (Aug. 14, 2007) at 1.** According to the article, leaders in Tallevast, Florida are asking EPA to help clean up toxic waste in their community, because clean up efforts “are not addressing residents’ health and relocation concerns.” In a letter to EPA Region IV, FOCUS, a residents’ advocacy group, requested that EPA “establish a multi-agency, alternative dispute resolution process to handle those and other issues not raised in several lawsuits over the contamination. . . . FOCUS is seeking a neutral moderator who would assist responsible parties – including the U.S. Departments of Defense and Energy – in identifying and sharing the cost of addressing community needs stemming from a 200-acre plume of underground contamination in Tallevast.” FOCUS asserted that nobody has come forward to relocate residents or address illnesses, cancers, and deaths that FOCUS contends the contamination caused.
- **“Solis Testifies on Port Pollution – ‘As We Grow Our Ports, We Must Grow Them Green,’” States News Service (Aug. 9, 2007).** The article set forth a press release from Congresswoman Hilda L. Solis (D-CA), which discussed her testimony at a field hearing before the United States Senate Environmental and Public Works Committee, entitled “Hearing to Examine Port Pollution and the Need for Additional Controls on Large

Ships.” Congresswoman Solis specifically testified to her introduction of H.R. 2548, the Marine Vessel Emissions Reduction Act, which seeks “to reduce pollution from marine vessels at [United States’] ports.” Ms. Solis noted that “[m]any of the communities on the front lines of this pollution are environmental justice communities, which are the least equipped to deal with the cumulative impacts of environmental contamination.” In her comments, Congresswoman Solis took issue with an EPA proposed rule from April 2007 regarding marine vessels. She found the proposed rule “troubling because of its lack of attention to environmental justice.” She asserted that the proposal “did not mention environmental justice once in its 800 pages.”

- **“Advice on California Low-Carbon Fuel Policy Sparks Broad Concerns,” Clean Air Report (Aug. 9, 2007).** According to the article, researchers from the University of California issued a report on August 2, 2007 that set forth 22 policy recommendations for the California Air Resources Board (“CARB”), who is planning to develop a low-carbon fuel standard (“LCFS”). Environmentalists have criticized the recommendations “to encourage increased use of diesel fuel for light-duty vehicles and allow companies to comply by paying a fee.” Environmentalists do not believe that efficiency credits for light-duty diesels are appropriate. The report acknowledged that increasing sales of diesel “could have adverse environmental justice impacts due to increased emissions of both criteria and toxic air pollution.”
- **“Permit Issued for Morrow Landfill,” Bucyrus Telegraph Forum (OH Aug. 8, 2007) at 3.** According to the article, the Ohio Environmental Protection Agency issued a final air permit for a transfer station in Morrow County, Ohio to Washington Environmental Ltd. The permit will regulate dust emissions from the loading and unloading of debris. The planned landfill has drawn opposition from various environmental groups, including an environmental justice group. They are concerned with the potential health effects, particularly due to the fact that the proposed site is two miles away from an elementary school and three miles from a junior and senior high school.
- **“Task Force to Study Pollution’s Effect on Poor; Members to be Picked Wednesday,” Albuquerque Journal (N.M. Aug. 7, 2007) at 4.** According to the article, the Albuquerque-Bernalillo County Air Quality Control Board was scheduled to select members for an environmental justice task force on August 8, 2007. The task force would then study how pollution affects low-income and minority communities. In addition, the task force would attempt to “identify opportunities to integrate environmental justice into existing city and county programs, strengthen community outreach efforts, strengthen enforcement actions against polluters, and study cumulative impacts, or the effects of many different

kinds of pollutants on people living near them.” All of these objectives pertain to air-quality issues.

- **“Credits Offer Profits for Going Green,” Sacramento Bee (Aug. 5, 2007) at A1.** According to the article, California is establishing a cap-and-trade market for greenhouse gases that will begin in 2012. The market will allow state regulators to “distribute, either free or through an auction, a set amount of emissions permits to power plants, cement manufacturers and others. These permits cap the volume of carbon dioxide and other greenhouse gases they can emit. The cap will ratchet down over time, and firms unable to sufficiently reduce their emissions will have to buy permits on the open market.” Critics of the program cite, among other things, the need for environmental justice and “warn that poor, blighted communities will remain exposed to pollution if local industry finds it cheaper to buy permits than to retrofit factories.” While establishing a market is not a “foregone conclusion,” it appears likely inevitable based on broad support.
- **“Rialto Water Study Urged,” San Bernardino County Sun (CA Aug. 5, 2007).** According to the article, Rialto City Councilman Ed Scott is calling for a thorough study of the drinking water in Rialto, California. The water was contaminated with perchlorate, and the City would like to know how the contamination has affected the residents’ health. Perchlorate has been linked to thyroid disorders, and some residents have reported health issues related to their thyroid. While environmental justice activists believe undertaking a study is a good step, they assert that “the top priority should be making sure people aren’t exposed to perchlorate.”
- **“Coalition for a Safe Environment; Environmental Justice Leader Jesse N. Marquez Joins in Carbon Monoxide Suit Against U.S. EPA,” Lab Business Week (Aug. 5, 2007) at 323.** According to the article, Jesse Marquez, an environmental justice leader in Southern California, has joined four other environmental groups in a lawsuit against EPA “over its failure to update nationwide air quality standards for carbon monoxide.” The Clean Air Act requires that EPA review all National Ambient Air Quality Standards “every five years to determine if the rules need to be strengthened. However, the carbon monoxide standard has not been reviewed since August 1994.” Carbon monoxide poisoning has been linked to cardiovascular, developmental, and nervous system problems, as well as low birth weights.
- **“Vote Could Speed 11 New Power Plants in Southland; The AQMD Allows Developers to Buy Credits to Offset Pollution Released by the Facilities. Critics Call the Plan a Sellout,” Los Angeles Times (Aug. 4, 2007) at B3.** According to the article, the South Coast Air Quality Management District (“District”) approved a plan on August 3, 2007 that “gave power plant developers the opportunity to buy credits to offset

pollution that would be released by the new facilities. The credits were originally intended for schools, hospitals, and other emergency facilities.” The plan could potentially result in the quicker construction of 11 new power plants across the Southland region. Environmentalists, however, were outraged by the decision, because they believe that the “District has assumed the role of polluter proponent.” However, the District’s Chairman noted that the “measures will help minimize the impact of new power plants, especially in low-income environmental justice communities and other areas already subject to high levels of air pollution.”

- **“Plant Closes, but the Waste Lives On; Decades Later, New Jersey Residents Sue Ford for Damages,” International Herald Tribune (July 30, 2007) at 11.** The article recounts the history of the Upper Ringwood Superfund Site in New Jersey and discusses what some “environmental experts say is now among the messiest industrial cleanup efforts in Superfund’s 27-year history.” The article noted that residents sued Ford last year in a New Jersey state court for property damage and personal injuries stemming from improper disposal of waste from the plant. The residents believe that Ford’s activities still contaminate the soil, air and groundwater and that Ford has not properly cleaned up its contamination, which they believe have caused various health problems. Upper Ringwood is home to the Ramapough Lenape Indian Nation.
- **“In Minority Neighborhood, Kids’ Risk of Cancer Soars,” Chicago Tribune (July 29, 2007) at C1.** According to the article, the southeast Houston neighborhood of Manchester has experienced increased cancer rates in children due to the fact that it is in “middle of the largest concentration of petrochemical plants in the United States.” The affected neighborhood is mostly Hispanic, which has caused some environmental experts to assert that environmental racism is occurring in the area. Environmental justice advocates believe that communities like Manchester have refineries and petrochemical plants due to economic and political reasons. The article asserts that children in Manchester are subject to polluted air to the extent that the elementary school “routinely locks [them] inside to ‘shelter in place’ when the air outside grows too foul.” The petrochemical industry, however, state that progress has been made in recent years in reducing emissions of some carcinogens.
- **“West Oakland: EPA Starts Backyard Cleanup Near AMCO,” San Francisco Chronicle (July 27, 2007) at B6.** According to the article, EPA began to remove lead-contaminated soil from the backyards of seven homes in West Oakland, California near the former AMCO Chemical distribution facility. EPA, however, articulated on July 26, 2007 that no immediate health risks exist to residents of the affected homes as long as they do not go into their yards. EPA believes that the lead at the site did not come from AMCO. Instead, the lead probably came from businesses

that took over the facility property, which was declared a Superfund site in 2003, after AMCO left in 1989.

- **“Superfund: Clinton Barrels into ‘Environmental Justice’ Issue Whole Hog,” Environment and Energy Daily (July 26, 2007).**  
According to the article, the Superfund and Environmental Health Subcommittee held an oversight hearing on July 25, 2007 that focused on environmental justice. The hearing was the first ever of its kind. Senator Hillary Clinton (D-N.Y.) hosted the meeting and “focused on a series of recent studies that revealed major problems in EPA’s ability to protect certain communities. Much of the testimony focused on failures to comply with [Executive Order 12898, which requires] the federal government to take action to address environmental hazards in minority communities.” Senator Clinton blamed President Bush for the roll back of many of the gains on environmental justice that were made when her husband was President. In addition, EPA’s Inspector General testified that the Agency “needs to do more to integrate environmental justice into its programs and activities.” Congresswoman Hilda Solis (D-CA) noted that more than “5.5 million Latinos and 68 percent of all African-Americans live within the range where health effects from coal-powered power plants are the most severe.” The article concluded by stating that other witnesses acknowledged how complex the issue was.
- **“New CDC-EPA Partnership Aims to Address Environmental Justice,” Clean Air Report (July 26, 2007).** According to the article, EPA and the Centers for Disease Control and Prevention (“CDC”) entered into a memorandum of understanding (“MOU”) on July 18, 2007 that sought to provide “support for local environmental health assessments and risk mitigation programs [that] could help the Agency effectively address so-called environmental justice concerns, with the effort targeted at a broad array of social, ethnic, economic sectors.” Under the terms of the MOU, both agencies pledged to support various risk assessment and environmental health initiatives at a local level. Four pilot sites were chosen to implement the MOU, which resulted from a NEJAC recommendation.
- **“Governor’s BCP Overhaul ‘Flawed’ Says Environment Expert; Associations, Events & Awards,” Real Estate Weekly (July 25, 2007).**  
According to the article, one environmental expert has criticized New York Governor Eliot Spitzer’s proposal to revamp the State’s Brownfield Cleanup Program (“BCP”), stating that the plan “drastically and dangerously curtails the incentive to cleanup and redevelop contaminated sites.” The expert believes that the proposed amendments to the three-year old program “negate a key feature of the existing law: an enhanced incentive when a brownfield is in an economically challenged neighborhood. ‘The result will be a serious blow to environmental justice concerns, burdening less fortunate communities with dangerously

polluted, non-productive assets, and reducing opportunities for meaningful community revitalization.”

- **“Solis Testifies on Environmental Justice – ‘We Must Do Better for Health of Our Communities,’” States News Service (July 25, 2007).** The article set forth a press release from the office of Congresswoman Hilda Solis (D-CA) that presented her testimony before the United States Senate Environment and Public Work Committee’s Subcommittee on Superfund and Environmental Health on July 25, 2007. The hearing was the first ever in the Senate on environmental justice. Among the items Congresswoman Solis discussed in her testimony was the fact that: EPA released a draft environmental justice strategic plan that “would have disregarded race as a consideration for determining environmental justice, in direct contradiction with Executive Order 12898;” President Bush’s budget requested “at least a 25 percent cut in the environmental justice budget” since 2004; the Administration proposed “significant weakening changes to the Toxic Release Inventory Program in early 2006;” and reports from EPA’s Inspector General and the Government Accountability Office (“GAO”) assert that EPA did not consider the impact of its activities on environmental justice communities. In addition, she noted her belief that environmental justice communities should receive protection from global warming.
- **“Senator Clinton Announces Bill to Step Up Federal Commitment to Environmental Justice: Leads First-Ever Senate Hearing on Environmental Justice,” States News Service (July 25, 2007).** The article set forth a press release from Senator Hillary Clinton (D-N.Y.) that announced that Senator Clinton “will introduce legislation to step up the Federal government’s efforts to ensure environmental justice.” Senator Clinton made this announcement at the first-ever Senate hearing on environmental justice on July 25, 2007. In making this announcement, Senator Clinton called for more EPA accountability, as well as “increased support for community-based efforts to address environmental concerns.” The press release set forth that Senator Clinton’s bill will attempt to: increase federal accountability through the codification of the Interagency Working Group on Environmental Justice (“IWG”) to “force more accountability government-wide to address cross-cutting environmental justice concerns;” help build community capacity through the establishment of a grant program that the IWG will administer; and provide access to experts through the establishment of an environmental justice clearinghouse that will connect communities with technical experts.
- **“Health Threats Action Urged \*\*\* Community Says Industry to Blame,” Acadiana Edition (July 25, 2007).** According to the article, residents in Mossville, Louisiana, a historically African-American community that has a population of about 1,000, are asserting that they are



suffering from pollution-related health problems and are requesting that the federal government “relocate their families, provide medical treatment, and place a moratorium on industrial facilities in the area.” The residents made their request through a report that the Mossville Environmental Action Now (“MEAN”) and the New Orleans-based Advocates for Environmental Human Rights issued on July 24, 2007. The report alleged a “clear link between the chemical plants and refineries near the community and toxic chemicals that have been found in the blood of some who live there.” The report compared chemicals that local industrial plants released into the environment with the specific chemicals found in the blood of residents. In the 1990s, studies of the United States Department of Health and Human Service’s Agency for Toxic Substances and Disease Registry (“ATSDR”) found that some Mossville residents had elevated blood levels of dioxins. However, ATSDR has not done any recent follow-up because the Agency “concluded the elevated blood levels of dioxins were most likely linked to exposure several years ago.”

- **“Brentwood Trash Facility Fight Spans Two Decades,” Washington Post (July 25, 2007) at B1.** According to the article, a resident near the Brentwood trash transfer station in Washington, D.C. is leading an effort in opposition to the “presence and stench of the garbage processed and stored at the facility until it is taken to landfills, attracting flies, raccoons, possums, and rats.” The residents contend that the transfer station violates air pollution standards of the Clean Air Act. In addition, the residents charge that “the placement of the transfer facility is an example of ‘environmental racism’ against the working-class neighborhood, where mostly African-Americans reside.” In response, the owners of the facility assert that they are observing applicable regulations and do not know of any evidence that the facility presents detrimental health effects.
- **“Court Ruling May Affect Scope of Global Chemical Demil Rules,” Defense Environment Alert (July 24, 2007).** According to the article, the United States District Court for the Southern District of Indiana is considering whether the Army violated federal law “by shipping wastewater from neutralized nerve agent across several states for destruction by a Texas incinerator, with one environmentalist saying the upcoming ruling could have significant international implications on the definition of a chemical weapon and what meets legal destruction requirements.” Environmentalists and citizen activists are seeking a preliminary injunction with regard to the Army’s shipments of VX nerve agent wastewater to Port Arthur, Texas from its Newport, Indiana facility. They charge that the shipments violate provisions of the Resource Conservation and Recovery Act, as well as environmental justice requirements of the National Environmental Policy Act.
- **“EPA Awards Alaska, Idaho, Oregon, and Washington \$94,000 for Environmental Education,” States News Service (July 23, 2007).** The

article set forth a press release from EPA that announced that EPA has awarded \$94,000 for education programs in Alaska, Idaho, Oregon, and Washington. The funding will promote environmental literacy and help children understand their connection to the environment. The grants support projects that help students learn more about various issues, including environmental justice.

- **“Congressional Oversight of Voluntary Markets May Shape GHG Rules,” Carbon Control News (July 23, 2007).** According to the article, lawmakers in the House “have taken initial steps to ramp up oversight of voluntary carbon markets,” which allow them to assert themselves in global warming issues even if passing the mandatory climate change program remains elusive. The primary issue is the purchase of offsets, which are “actions by another party that reduce greenhouse gas emissions the purchaser themselves may not be able to limit.” A hearing was held in the House Select Committee on Energy Independence and Global Warming on July 18, 2007 discussing the growing use of offsets. In addition, the issue of environmental justice was raised at the hearing, when Congresswoman Hilda Solis (D-CA) asked witnesses on the implications of offset projects for local communities.
- **“Officials: Communities Need Protection from Toxins; As Valley Grows, More Attention Must be Paid to Guarding Low-Income Areas from Industrial Pollution, They Say,” Morning Call (PA July 21, 2007) at B3.** According to the article, the Office of Environmental Advocate of Pennsylvania’s Department of Environmental Protection (“DEP”) met with elected officials and community leaders on July 20, 2007 to “petition them to think about sponsoring legislation aimed at stricter controls on where development and industry are placed.” One factor that spurred DEP to take such action was the finding that many polluting industries were located in disproportionately low-income neighborhoods, such as Lehigh, Pennsylvania. DEP’s Environmental Advocate’s Office assists communities that cannot fend for themselves “because they lack the resources or might not even know a polluter is being planned for their neighborhood.” Accordingly, the office might intervene if a landfill seeks to settle in an environmental justice community.
- **“Backers of CO2-Storage Bill Seek Agreement with EJ Advocates,” Inside Cal/EPA (July 20, 2007).** According to the article, “[p]roponents of underground carbon sequestration to minimize global warming are reaching out to environmental justice advocates who recently derailed legislation to regulate the practice, in an apparent attempt to lay the groundwork for reviving the legislation next year and to counter unease over the technology.” The outreach is significant and demonstrates the “challenges federal lawmakers face in developing climate change legislation, while addressing concerns by environmental justice

advocates.” In addition, the effort “highlights tensions over how strategies for curbing warming might impact minority communities, and could foreshadow efforts by the environmental justice community to assert itself in debate over the design of federal global warming legislation.” The article noted the desire of environmental justice groups to be properly consulted on efforts to encourage carbon capture and sequestration.

- **“Alabama Department of Environmental Management Hosts Environmental Justice Training,” US States News (July 20, 2007).** The article set forth a press release from the Alabama Department of Environmental Management (“ADEM”) that announced that it “has completed its latest round of environmental justice training by providing the ‘Fundamentals of Environmental Justice Course’ to a number of its staff members.” The training was held in cooperation with EPA during the week of July 16-20, 2007. A variety of topics were covered during the training, including the legal authorities that provide the foundation for environmental justice. ADEM’s Director, Trey Glen, noted the importance of providing its employees with the fundamentals of environmental justice in building a successful environmental justice program.
- **“Environmental Issues on Display; 150 Health Officials Tour Sewer Treatment Center, South Valley Neighborhood and More as Part of Conference,” Albuquerque Journal (N.M. July 20, 2007) at 10.** According to the article, “the Bernalillo County Office of Environmental Health gave about 150 health officials from around the country a tour of Mountain View and other parts of South Valley, to highlight some of the environmental problems in those areas.” 16.4 percent of families in Mountain View are below the poverty level and 73 percent of the population is Hispanic. Recently, Mountain View’s Neighborhood Association lost in its opposition of an air quality permit for a concrete manufacturer, who wanted to locate a plant across from the neighborhood community center. The article noted that the tour shocked some of the participants.
- **“New York State Department of Environmental Conservation Announces Brownfield Grants for Chautauqua, Albany, Suffolk, Jefferson Counties,” US States News (July 19, 2007).** The article set forth a press release from the New York State Department of Environmental Conservation (“DEC”) that announced \$567,326 in “Environmental Restoration Program (“ERP”) grants for the investigation and remediation of environmental contamination at sites in Chautauqua, Albany, Suffolk, and Jefferson counties. The grants are being funded through the 1995 Clean Water/Clean Air Bond Act.” As part of these grants, \$50,670 will go to the County of Suffolk to investigate a property located in an environmental justice community. The abandoned property

was operated as a gas station and vehicle repair shop by a number of independent operators.

- **“Los Angeles Air District Ruling on Emissions Credits Delayed,” Global Power Report (July 19, 2007) at 19.** According to the article, the governing board of California’s South Coast Air Quality Management District (“SCAQMD”) decided on July 13, 2007 to delay a decision to “increase already expensive mitigation fees on new power plant projects in the Los Angeles basin” for a month. The proposed mitigation fees “are increasing more than 100% and have been designed to discourage power plant development in areas with the dirtiest air where environmental justice has become an issue. The fees would allow power plant projects to buy energy reduction credits from a priority reserve account normally reserved for essential public services.”
- **“Democrats Hope Superfund Study Bolsters Environmental Justice Bill,” Environmental Policy Alert (July 18, 2007).** According to the article, a report entitled, “Superfund: Evaluating the Impact of Executive Order 12898,” suggests that Executive Order 12898 has done “little to increase the Superfund program’s focus on protecting minorities” and “could bolster efforts by equity activists to pass legislation codifying the order and also aid Democratic oversight efforts of the cleanup program generally.” The report “suggests that despite the Clinton order, EPA is now even less likely to list contaminated sites discovered in poor and minority areas than it was prior to 1994. The report bases its findings on a study of 61 contaminated sites discovered since the 1994 order, eight of which EPA did not list.” The report concluded that the “results of this study indicate that Executive Order 12898 for environmental justice has not increased the equability of the Superfund program.” Industry sources dispute this conclusion that the Superfund program is not equitable, noting that the “Superfund listing process is ‘race blind.’”
- **“Environmental Justice Groups Eye Plan to Limit Climate Bills’ Harms,” Environmental Policy Alert (July 18, 2007).** According to the article, “[e]nvironmental justice and civil rights groups will try to draft a so-called equity agenda to address the disproportionate burdens they say minority and low-income populations will face if already-proposed bills to address climate change are adopted, including exposure to more pollution under a cap-and-trade approach and from increased production of domestic biofuels.” The groups are scheduled to convene next month for a “first-time climate change summit on Capitol Hill . . . to shape a policy agenda to ensure that any legislation to address global warming does not further harm these communities.” The article noted that some believe that the environmental justice advocates will have to retreat from their opposition to a cap-and trade system, as well as their opposition to incentives to boost biofuel production, to have a meaningful voice in the debate. However, the article stated that some lawmakers, such as Senator

John Kerry (D-MA) and Congresswoman Hilda Solis (D-CA) will lend their support to addressing the environmental justice community's "concerns in legislation."

- **Bullard: Green Issue is Black and White," CNN.COM (July 17, 2007).** According to the article, Dr. Robert Bullard noted his belief that an insidious form of racism is occurring at the Nation's landfills, chemical plants, waste facilities, and smelters. Specifically, he asserted that "the people who live closet [to waste facilities] are oftentimes the most vulnerable people who have the fewest resources to escape neighborhoods because of residential segregation, housing discrimination, and limited incomes. . . . Living near these facilities puts people at higher risk for health problems." Dr. Bullard noted that the people were predominantly minority and concluded that "[j]ust because you're poor . . . doesn't mean that you should be dumped on."
- **"Mayor Dixon Launches Sustainability Office as a Part of Her Cleaner, Greener Baltimore Initiative; Candidates Sought for Membership on City's New Sustainability Commission, States News Service (July 17, 2007).** The article set forth a press release from the City of Baltimore that announced that Baltimore Mayor Sheila Dixon "has established a Sustainability Manager position in the Department of Planning who will develop a sustainability and environmental management program for the City of Baltimore," as part of her ongoing commitment to a Cleaner, Greener, Healthier Baltimore. In addition, the press release announced the formation of a Commission on Sustainability to oversee the development of a sustainability plan for the City. The plan will address areas of environmental concern, such as environmental justice. The Commission will consist of 21 members, including environmental justice advocates.
- **"Mayor Pushes Traffic Plan in Church as Deadline Nears," New York Times (July 16, 2007) at B3.** According to the article, New York Mayor Michael R Bloomberg discussed his congestion pricing plan, which "would charge drivers a fee to enter or exit Manhattan below 86th Street," at churches in three boroughs. As part of his plan, Mayor Bloomberg spoke of environmental justice "in the City's poor neighborhoods, where traffic and garbage trucks pollute the air." Under his plan, the number of garbage trucks on city streets would be reduced through the increased use of barges and trains to haul waste.
- **"A Question of Power; Coal-Fired Plant on Navajo Land Called a Cleaner Energy Source, But Critics Say Land, People Will Pay the Price," Albuquerque Journal (N.M. July 15, 2007) at B1.** According to the article, protestors are hoping to block the proposed \$3 billion Desert Rock Power Plant that is scheduled for construction on Navajo land. The protestors do not want the plant and assert that the "Navajos have already

sacrificed their air, their land, and their health for the Nation's electricity [as] two big coal-fired power plants already operate in San Juan County." An Environmental Impact Statement ("EIS") has been prepared regarding the plant and looked at "the extent to which the Desert Rock would add pollution to the . . . area." The EIS noted that the "people living near the plant are low-income and minority and 'any deterioration of environmental quality would be disproportionately borne by this population.'"

- **"Peppersauce Residents Upset with Business," Pueblo Chieftain (CO July 12, 2007).** According to the article, homeowners in the Peppersuace Bottoms neighborhood of Colorado requested the shutdown of a prefabricated rail manufacturing plant on July 11, 2007 due to air and noise pollution, and the fact that creosote seeps into its groundwater. The neighborhood is a few feet away from the plant. The residents claim that if the neighborhood were "in a white area," none of the issues would have occurred. A member of EPA's environmental justice program, however, noted that soil samples were taken and "nothing triggered [the Agency's] action levels."
- **"San Francisco; Panel Hears Hunters Point Dust Issue; New Demands from Community to Halt Condos at Shipyard," San Francisco Chronicle (July 10, 2007) at C9.** According to the article, community leaders near the Hunters Point Shipyard in San Francisco reiterated their demands on July 9, 2007 that "the City halt a condo development at the [shipyard] and test nearby residents exposed to asbestos-laden construction dust." The community leaders presented their opinions at a hearing that the Board of Supervisors Land Use Committee convened. Although the Department of Public Health asserted that "no medical test could effectively determine the affects of exposure to low-levels of naturally-occurring asbestos in the construction dust," the leaders were not appeased. They claimed that the Department engaged in environmental racism for failing to punish the shipyard developer, "even though the company was cited for failing to control construction dust on several occasions, and last year the company reported that air monitors were malfunctioning most of last summer." The company denied the claims and says that it "has gone to great lengths to protect the public health."
- **"U. Colorado Professor: Pollution Not Linked to Social Class," University Wire (July 10, 2007).** According to the article, a University of Colorado Sociologist found that environmental racism is not "as directly linked to segregation or social class as most scholars think. . . . Neither income nor segregation decides who lives in the most polluted places." While the professor believes both factors play a role, he asserts that they are one of "a lot of factors." The professor based his findings after studying 61 cities in the United States and looking at air pollution,

housing segregation, and income inequality. He observed a weak correlation between the three factors.

- **“Environmental Justice Activists Seek Role in Federal Climate Debate,” Carbon Control News (July 9, 2007).** According to the article, environmental justice advocates plan to hold a summit in August in Washington, D.C. “to push key lawmakers to amend pending climate change legislation to avoid economic and environmental hardship on low-income communities . . . . The event could mark a new stage in the federal climate debate, which to date has been largely void of discussions regarding the impact of greenhouse gas (“GHG”) controls on minorities and the poor.” The activists assert that prior discussions relating to environmental justice concerns were confined to local and regional efforts to develop climate change policies. They believe that the Senate has virtually ignored “environmental justice issue in climate change legislation to this point.” Further, they are concerned about GHG cap-and-trade programs, due to their “potential to allow polluters located in minority neighborhoods to avoid emission reductions, and possibly increase emissions, by simply purchasing credits to comply with new GHG controls”
- **“‘Monster’ Utility Towers Rile Some Residents,” Santa Fe New Mexican (July 8, 2007) at C1.** According to the article, New Mexico is building large metal towers to support electric transmission lines, which will address the growing electricity demand. However, not everyone is pleased with the towers project due to, among other things, “charges of ‘environmental racism’ because of its proximity to largely Hispanic neighborhoods of Santa Fe.” However, a report from the National Institutes of Health asserted that such power line-generated electromagnetic fields have not been linked with “cancer or any other adverse health effects.”
- **“New ARB Chief Nichols Faces Senate Grilling Over GHG Cap-and-Trade,” Inside Cal/EPA (July 6, 2007).** According to the article, the newly appointed chair of California’s Air Resources Board (“CARB”) was scheduled to face an intense confirmation hearing by Democratic leaders in the Senate on July 12, 2007. Specifically, the Senators were to probe into Ms. Nichols’ comments that the greenhouse gas cap-and-trade program “can work and bring emissions down effectively.” While major industry and environmental groups have expressed strong support for Ms. Nichols, one member of the Sierra Club noted that CARB should “follow the public process prescribed by AB 32, which requires a study of community impacts and consideration of environmental justice before any pollution trading mechanism is adopted.”
- **“Army Voluntarily Halts VX Agent Waste Shipments, Pending Hearing,” Superfund Report (July 2, 2007).** According to the article,

the Army voluntarily suspended shipments of neutralized VX nerve agent in mid-June from its facility in Indiana to a commercial incinerator in Texas. The Army suspended the shipments pending a hearing before the United States District Court for the Southern District of Indiana on July 16, 2007 regarding a lawsuit that activists and environmentalists filed in May against the Army “claiming it violated federal waste and other environmental laws in planning for the shipments.” The Army began shipping the neutralized VX nerve agent in mid-April to the chagrin of activists who claim that the shipments “violate various Resource Conservation and Recovery Act provisions, environmental justice measures in the National Environmental Policy Act, Indiana waste laws, and federal law that prohibits the interstate transport of chemical agents.” While the Army will not send anymore shipments until the hearing, it maintains that the shipments were safe to the environment.

- **“State Looks at Tighter Rules for Cancer Risks,” Birmingham News (AL June 29, 2007).** According to the article, the Alabama Environmental Management Commission met on June 29, 2007 to discuss standards for cancer-causing chemicals that “can be poured into Alabama’s rivers and streams. In Alabama, industries are allowed to put 58 known carcinogens into the water, such as arsenic from power plants and other coal users, chloroform, benzene, and PCBs.” EPA “allows states to choose between [one in 100,000 or one in a million] when it writes standards for cancer-causing chemicals that can be poured into Alabama’s rivers and streams.” Previously, Alabama’s water quality groups, including an environmental justice organization, joined together and petitioned the State “to tighten its pollution rules to make them at least as tough as those in some other states.”

## 2. **Recent Litigation.**

- No noteworthy **“Recent Litigation”** was identified for this time period.

## 3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

### A. **Federal Congressional Bills and Matters.**

- **H.R. 3333, introduced on August 2, 2007 by Congressman Jesse Jackson (D-IL).** *Status: Referred to House Committee on Energy and Commerce on August 2, 2007.* The Bill, entitled the “Minority Health Improvement and Health Disparity Elimination Act,” seeks to amend the Public Health Service Act to improve the health and healthcare of racial and ethnic minority groups. Specifically, the Bill seeks to: increase diversity and cultural competency in the healthcare workforce through



training and education; promote health care access and awareness; reduce and eliminate health disparities; collect and analyze data; and collaborate on a national plan. It calls on the Secretary of the Department of Health and Human Services to “develop and implement a comprehensive Department-wide plan to improve minority health and eliminate health disparities in the United States, to be known as the National Plan to Improve Minority Health and Eliminate Health Disparities.” In addition, the Secretary “shall develop and maintain an Internet Clearinghouse within the Office of Minority Health to assist providers in improving the health and healthcare of racial and ethnic minority groups.”

- **H.R. 3014, introduced on July 12, 2007 by Congresswoman Hilda L. Solis (D-CA). Status: Referred on July 12, 2007 to the House Committee on Energy and Commerce, and in addition to the House Committees on Ways and Means, Education and Labor, Natural Resources, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.** The Bill seeks to improve the health of minority individuals. The Health Equity and Accountability Act of 2007 represents comprehensive legislation that seeks to address health disparities issues, such as access to health care. The Bill also aims to eliminate the persistent health disparities that leave millions of Americans in poorer health and more likely to die prematurely during their most productive life years. The legislation will also address: health work force diversity; culturally and linguistically appropriate health care; access to health care; and data collection and analysis. Finally, the Bill will establish community-centric initiatives to coordinate existing resources to address health disparities and promote positive health behaviors among women and ensure that low-income legal immigrants can have access to health care for their children.
- No noteworthy “*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*” were identified for this time period.
- **Federal Register Notices.**
  - **EPA, National Environmental Justice Advisory Council; Notification of Public Meeting and Public Comment, 72 Fed. Reg. 46,994 (August 22, 2007).** EPA announced that the National Environmental Justice Advisory Council (“NEJAC”) will hold an open meeting from September 18-20, 2007 in Baltimore, Maryland. Members of the public who wish to participate at the meeting are encouraged to register in advance by September 12, 2007. A public comment session is scheduled for Tuesday, September 18, 2007 from 6:30 to 9:30 p.m. The purpose of the meeting is to discuss and provide recommendations “regarding two

major areas: (1) Strategies to identify, mitigate, and/or prevent the disproportionate burden on communities of air pollution resulting from goods movement activities; and (2) key issues related to integration of environmental justice considerations in EPA's programs, policies, and activities."

- **EPA, National Environmental Justice Advisory Council; Notification of Public Meeting and Public Comment, 72 Fed. Reg. 44,509 (August 8, 2007).** EPA announced that the NEJAC will hold an open meeting via teleconference call on August 23, 2007 from 2 P.M. to 4 P.M. Eastern Time. Members of the public who wish to participate must register in advance by August 20, 2007. The purpose of the meeting is to discuss the agenda for the NEJAC public meeting scheduled for September 18-20, 2007. Specifically, the call will discuss issues related to: "(1) [a]ir pollution impacts of goods movements on communities; and (2) key issues related to the interpretation of environmental justice consideration in EPA's programs, policies and activities."
- **DOI, Notice of Intent to Prepare a Resource Management Plan and Associated Environmental Impact Statement for the South Coast Planning Area, California, 72 Fed. Reg. 44,173 (August 7, 2007).** The Bureau of Land Management ("BLM"), Palm Springs-South Coast Field Office, California, of the United States Department of the Interior ("DOI") announced its intent to revise its South Coast Resource Management Plan and prepare an associated Environmental Impact Statement ("RMP/EIS"). The revised RMP, which will consider, among other things, environmental justice, will replace the current RMP.
- **EPA, Acrolein Ecological Risk Assessment; Notice of Availability, and Risk Reduction Options, 72 Fed. Reg. 40,857 (July 25, 2007).** EPA announced the availability of its ecological risk assessments and related documents for the pesticide acrolein. In soliciting public comment on these documents by September 24, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision ("RED") for acrolein through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, "information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to acrolein, compared to the general population."
- **EPA, Naphthenate Salts Risk Assessment; Notice of Availability and Risk Reduction Options, 72 Fed. Reg. 40,455 (July 25, 2007).** EPA announced the availability of its risk assessments and related documents for the pesticides copper

naphthenate and zinc naphthenate (the naphthenate salts). In soliciting public comment on these documents by September 24, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for the naphthenate salts through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to the naphthenate salts, compared to the general population.”

- **DOI, Notice of Intent to Prepare Resource Management Plans and Associated Environmental Impact Statements for the North Dakota and South Dakota Field Offices, North Dakota and South Dakota, 72 Fed. Reg. 39,638 (July 19, 2007).** The BLM, North Dakota Field Office (“NDFO”) and South Dakota Field Office (“SDFO”) announced its intent to prepare a RMP/EIS for the NDFO and SDFO planning areas. These RMPs will replace the current North Dakota and South Dakota RMPs.” Environmental justice issues will be considered in the planning process.

- **EPA, Bromonitrostyrene Risk Assessment; Notice of Availability and Risk Reduction Options, 72 Fed. Reg. 39,416 (July 18, 2007).** EPA announced the availability of its risk assessments and related documents for the pesticide bromonitrosytrene (“BNS”). In soliciting public comment on these documents by September 17, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for BNS through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to BNS, compared to the general population.”

- **EPA, Criteria for the Safe and Environmentally Protective Use of Granular Mine Tailings Known as “Chat,” 72 Fed. Reg. 39,331 (July 18, 2007).** EPA promulgated mandatory criteria “for the environmentally protective use of chat in transportation projects carried out, in whole or in part, with Federal funds. Specifically, chat used in such transportation projects will be safe and environmentally protective if it is used in asphalt concrete, in surry seals, microsurfacing, or in epoxy seals for anti-skid on bridge decking.” With regard to environmental justice, EPA

determined that the rule does not affect the level of protection given to human health and the environment. Accordingly, the rule will not have a disproportionately high and adverse human health or environmental effect on low-income or minority populations. EPA determined that although the chat pile are, in some cases, located near low-income populations, the removal of chat “from piles for transportation construction applications that are considered protective of human health and the environment would likely have a positive impact on these communities.”

- **DOT, Environmental Impact Statement, Canyon and Ada Counties, ID I-84, Karcher Interchange to Five Mile Road Environmental Study, 72 Fed. Reg. 39,129 (July 17, 2007).** The Federal Highway Administration of the United States Department of Transportation (“DOT”) announced its intent to prepare an Environmental Impact Statement (“EIS”) “for the proposed addition of lanes and other reconstruction improvements to approximately 16 miles of I-84 between the Karcher Interchange in Canyon County and Five Mile Road in Ada County, Idaho.” Among other things, environmental justice will be addressed in the EIS. The Draft EIS is scheduled for Early 2009.

- **EPA, National Volatile Organic Compound Emission Standards for Aerosol Coatings, 72 Fed. Reg. 38,952 (July 16, 2007).** EPA proposed a “national reactivity-based volatile organic compound (“VOC”) emissions regulation for the aerosol coatings (aerosol spray paints) category under section 183(e) of the Clean Air Act (“CAA”). The regulation will establish a nationwide reactivity-based standard for aerosol coatings. With regard to environmental justice, EPA determined that the rule does not affect the level of protection given to human health and the environment. Accordingly, the rule will not have a disproportionately high and adverse human health or environmental effect on low-income or minority populations.

- **EPA, National Emission Standards for Hazardous Air Pollutants for Area Sources: Acrylic and Modacrylic Fibers Production, Carbon Black Production, Chemical Manufacturing: Chromium Compounds, Flexible Polyurethane Foam Production and Fabrication, Lead Acid Battery Manufacturing, and Wood Preserving, 72 Fed. Reg. 38,864 (July 16, 2007).** EPA issued 6 national emissions standards for hazardous air pollutants for 7 area source categories. The final rules include emission standards “that reflect the generally available control technologies or management practices in each of these area source categories.” The final rules establish national standards for each of the area source categories. With regard to environmental justice, EPA determined that the rule does not affect the level of protection given to human health and the

- environment. Accordingly, the rule will not have a disproportionately high and adverse human health or environmental effect on low-income or minority populations.
- **EPA, Public Hearings and Submission of Plans, 72 Fed. Reg. 38,787 (July 16, 2007).** EPA announced changes to its regulations “specifying the public hearing requirements for State Implementation Plan (“SIP”) submissions, identifying the method for submission of SIPs and preliminary review of plans; and the criteria for determining the completeness of plan submission requirements to reflect the changes to public hearing and plan submission requirements.” With regard to environmental justice, EPA determined that the rule does not affect the level of protection given to human health and the environment. Accordingly, the rule will not have a disproportionately high and adverse human health or environmental effect on low-income or minority populations. The action modifies public hearing requirements for SIPs.
  - **USDA, Norborne Baseload Plant: Notice of Availability of Final Environmental Impact Statement, 72 Fed. Reg. 38,599 (July 13, 2007).** The Rural Utilities Service (“RUS”) of the United States Department of Agriculture (“USDA”) announced its issuance of a Final Environmental Impact Statement (“EIS”) for the Norborne Baseload Plant. The EIS evaluated the potential environmental impacts of, and alternatives to, the Associated Electric Cooperative, Inc. application for Rural Development financing to construct a pulverized coal fired power plant in Carroll County, Missouri. Comments on the EIS, which looked at, among other things, environmental justice, are due on August 9, 2007.
  - **EPA, National Ambient Air Quality Standards for Ozone, 72 Fed. Reg. 37,818 (July 11, 2007).** EPA proposes to make revisions to the primary and secondary National Ambient Air Quality Standards for ozone to provide requisite protection of public health and welfare, respectively, and to make corresponding revisions in data handling conventions for ozone. Specifically, “EPA proposes to revise the level of the 8-hour standard to a level within the range of 0.070 to 0.075 parts per million (“ppm”), to provide increased protection for children and other “at risk” populations against an array of [ozone]-related adverse health effects that range from decreased lung function and increased respiratory symptoms to serious indicators of respiratory morbidity including emergency department visits and hospital admissions for respiratory causes, and possibly cardiovascular-related morbidity as well as total nonaccidental and cardiopulmonary mortality.” Comments are due on October 9, 2007. With regard to environmental justice, EPA determined that the rule, which will establish uniform national standards for ozone air pollution, does

not affect the level of protection given to human health and the environment. Accordingly, the rule will not have a disproportionately high and adverse human health or environmental effect on low-income or minority populations.

- **DOD, Intent to Prepare a Draft Environmental Impact Statement (“EIS”) for a Permit Application for Compartments B and C, Palm Beach and Hendry Counties, FL, 72 Fed. Reg. 37,733 (July 11, 2007).** The United States Army Corps of Engineers (“Corps”), Jacksonville District, of the United States Department of Defense (“DOD”) will receive a permit application “to construct Stormwater Treatment Areas on parcels of land identified as Compartments B and C of the Everglades Agricultural Area. As part of the permit process, the Corps is evaluating the environmental effects associated with [the construction].” A Draft EIS will be prepared to help render a decision on the permit application and will consider, among other things, environmental justice.
- **EPA, Copper 8-Quinolinolate Risk Assessment; Notice of Availability and Risk Reduction Options, 72 Fed. Reg. 37,768 (July 11, 2007).** EPA announced the availability of its risk assessments and related documents for the pesticide copper 8-quinolinolate. In soliciting public comment on these documents by September 10, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for copper 8-quinolinolate through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to copper 8-quinolinolate, compared to the general population.”
- **EPA, Consumer and Commercial Products: Control Techniques Guidelines in Lieu of Regulations for Paper, Film, and Foil Coatings; Metal Furniture Coatings; and Large Appliance Coatings, 72 Fed. Reg. 37,582 (July 10, 2007).** EPA proposes “to determine that control techniques guidelines will be substantially as effective as national regulations in reducing emissions of volatile organic compounds in ozone national ambient air quality standard nonattainment areas from the following three product categories: Paper, film, and foil coatings; metal furniture coatings; and large appliance coatings. Based on this determination, EPA may issue Control Techniques Guidelines in lieu of national regulations for these product categories. EPA has prepared draft Control Techniques Guidelines for the control of volatile organic compound emissions from each of the product

categories covered by this proposed determination. Once finalized, these Control Techniques Guidelines will provide guidance to the States concerning EPA's recommendations for reasonably available control technology-level controls for these product categories.” With regard to environmental justice, EPA determined that the rule does not affect the level of protection given to human health and the environment. Accordingly, the rule will not have a disproportionately high and adverse human health or environmental effect on low-income or minority populations.

- **EPA, Withdrawal of Federal Marine Aquatic Life Water Quality Criteria for Toxic Pollutants Applicable to Washington State, 72 Fed. Reg. 37,109 (July 9, 2007).** EPA proposed to “amend the Federal regulations to withdraw its 1992 federally promulgated marine copper and cyanide chronic aquatic life water quality criteria for Washington State, thereby enabling Washington to implement its current EPA-approved chronic numeric criteria for copper and cyanide that cover all marine waters of the State.” The rule takes effect on September 7, 2007. EPA determined that the rule will not have disproportionately high and adverse environmental or human health effects on low-income or minority populations because the rule applies to all marine waters in the State, and EPA had determined previously that the State’s criteria protect human health.
- **EPA, Glutaraldehyde Risk Assessment; Notice of Availability and Risk Reduction Options, 72 Fed. Reg. 37,008 (July 6, 2007).** EPA announced the availability of its risk assessments and related documents for the pesticide glutaraldehyde. In soliciting public comment on these documents by September 4, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for glutaraldehyde through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to glutaraldehyde, compared to the general population.”
- **EPA, Bioban P-1487 Risk Assessment; Notice of Availability and Risk Reduction Options, 72 Fed. Reg. 37,006 (July 6, 2007).** EPA announced the availability of its risk assessments and related documents for the pesticide Bioban P-1487. In soliciting public comment on these documents by September 4, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for Bioban P-1487 through a modified four-phase public

participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to Bioban P-1487, compared to the general population.”

**B. State Congressional Bills and Matters.**

- **California, Assembly Bill 809, introduced on February 22, 2007 by Congressman Sam Blakeslee (R District 33). Status: Rereferred to Senate Committee on Appropriations on July 17, 2007.** The Bill would allow any incremental increase in the amount of electricity generated by a large hydroelectric generation facility due to efficiency improvements to be considered renewable for the purposes of Renewable Portfolio Standard, under specified conditions. Specifically, this Bill would require that: the efficiencies were result of improvements that do not result in an adverse impact on instream beneficial uses or cause a change in the volume or timing of the streamflow; the facility has been operating prior to January 1, 2007; the efficiency improvements were initiated on or after January 1, 2008 and are not the result of routine maintenance; and the efficiency improvements are the result of a long-term financial commitment by the electricity seller. The Bill also requires that the California EPA’s Environmental Justice Advisory Committee meet at least once annually to discuss the production and distribution of hydrogen fuel in the State.
- **California, Assembly Bill 1066, introduced on February 23, 2007 by Congressman John Laird (D-District 27). Status: Rereferred to Senate Committee on Appropriations on July 11, 2007.** The Bill takes the “first steps at the statewide level to compile information and to assist state and local governments as they confront likely sea level increases caused by climate change.” Among other things, the Bill requires “the Ocean Protection Council, in coordination with other state and federal agencies, to provide the best available scientific information to state agencies to help them plan for sea level rise along the California coast and in California’s bays.” The Council should update this information periodically. In addition, the Bill also calls for the preparation of guidelines, which shall contain provisions to address environmental justice matters.
- **California, Assembly Bill 1107, introduced on February 23, 2007 by Congressman Juan Arambula (D-District 31). Status Rereferred to Senate Committee on Appropriations on July 12, 2007.** The Bill amends Section 65072 of, and adds Section 15571 to, the Government Code relating to transportation. Specifically, the Bill requires the establishment



of an advisory committee to help assess the shipping needs and practices of small businesses and microenterprises. The committee shall, among other things, assess statewide and regional opportunities for small businesses and microenterprises “to participate in the State’s goods movement logistics sector, including a review of how these entities may assist in the implementation of environmental justice policies of goods movement.” The committee shall prepare a report to the Governor and the Legislature by January 1, 2009.

- **California, Assembly Bill 1358, introduced on February 23, 2007 by Congressman Mark Leno (D-District 13). Status: Rereferred to Senate Committee on Appropriations on July 18, 2007.** The Bill amends Sections 65050.2 and 65302 of the Government Code, relating to planning. Specifically, the Bill establishes in the Office of the Governor the Office of Planning and Research “with duties that include developing and adopting guidelines for the preparation of and content of mandatory elements required in city and county general plans.” Among other things, the guidelines shall address environmental justice matters.
- **California, Assembly Bill 1472, introduced on February 23, 2007 by Congressman Mark Leno (D-District 13). Status: Placed on Senate Committee on Appropriations Suspense File on August 20, 2007.** The Bill would enact the California Healthy Places Act of 2008 (“Healthy Places Act”) and would state legislative intent related to illness and disease prevention, health improvement, and a reduction in health disparities in California by promoting environmental conditions supportive of health. The Bill would require the Department of Public Health’s Director to establish an Interagency Working Group, which would include representatives from “community-based organizations from five state regions that serve individuals from communities that have populations disproportionately burdened by disparities in health outcomes or health adverse environmental conditions, including, but not limited to, rural or urban communities with large minority or low-income populations.” The Bill would also require health impact assessments to, among other things: describe pathways through which the proposed activity may affect health determinants and health; and assess the baseline conditions of health determinates and health outcomes, disparities in health, the presence of health-sensitive populations, and the direction and magnitude of the effects on health determinants and health of the proposed activity.
- **California, Senate Bill 10, introduced on December 4, 2006 by Senator Christine Kehoe (D-District 39). Status: To Consent Calendar on August 27, 2007.** The Bill changes the responsibilities and governance of the San Diego County Regional Airport Authority’s governing board and replaces it with a new nine-member board of directors. At least one

member shall have experience in environmental justice topics, including other land use. The State Aeronautics Act (“Act”), which is the existing law, establishes the practice of airport land use compatibility planning to limit the risk of accidents and nuisances that airport operations cause and ensures the orderly operations and growth of airports. Every county in California must designate an Airport Land Use Commission responsible for compatibility planning and review. The Act exempts the County of San Diego from those provisions. The Legislature created the new San Diego County Regional Airport Authority (“Authority”) and shifted considerable powers from the San Diego Unified Port District and the San Diego Association of Governments to create the new Authority. The Bill changes the governance and responsibilities of the Authority.

- **California, Senate Bill 240, introduced on February 14, 2007 by Senator Dean Florez (D-District 16). Status: Rereferred to Assembly Committee on Appropriations on July 17, 2007.** The Bill seeks to address the finding that residents of the San Joaquin Valley “suffer some of the worst air quality in the world[, which] poses a significant threat to public health, the environment, and the economy of the valley.” Of particular note is the fact that the Bill provides at least \$10 million to “mitigate the impacts of air pollution on public health and the environment in disproportionately impacted environmental justice communities in the San Joaquin Valley. The district board shall convene an environmental justice advisory committee, selected from a list given to the board by environmental justice groups from the San Joaquin Valley, to recommend the neighborhoods in the district that constitute environmental justice communities, and how to expend funds within these communities.”
- **California Senate Bill 412, introduced on February 21, 2007 by Senator Joe Simitian (D-District 11). Status: Placed on Assembly Committee on Appropriations Suspense File on August 22, 2007.** The Bill would enact the Liquefied Natural Gas Market Assessment Act and requires the State Energy Resources Conservation and Development Commission (“Commission”) to make a draft report. Among its provisions, the Bill further calls for an analysis, that, among other things, “an analysis of potential disproportionately high and adverse human health or environmental effects on minority and low-income populations.”
- **Oregon, Senate Bill 420, introduced on January 15, 2007 by Senator Avel Gordly (I-District 23). Status: Enrolled on July 12, 2007.** The Bill establishes a twelve member Environmental Justice Task Force that will advise Oregon’s Governor on environmental justice issues. In addition, the Task Force will: advise the natural resource agencies on environmental justice issues; identify minority and low-income communities that “may be affected by environmental decisions made by the agencies;” meet with environmental justice communities and make

recommendations to the Governor based on these communities' concerns; and define environmental justice issues in the State.

- **State Regulatory Alerts.**

- No noteworthy “*State Regulatory Alerts*” were identified for this time period.